

MINUTES

UTAH FUNERAL SERVICE RULES HEARING AND LICENSING BOARD MEETING

February 15, 2007

**Room 475 – 4th Floor – 9:00 A.M.
Heber Wells Building
160 East 300 South
Salt Lake City, Utah**

RULES HEARING:

CONVENED: 9:01 A.M.

Judge Steve Eklund conducted the Rules Hearing

ADJOURNED: 9:20 A.M.

In attendance were Judge Eklund, Noel Taxin, Karen McCall, Shaun S. Myers, Board Chairperson, Joseph W. Thalman, Board Member, Craig McMillan, Board Member, Reginal V. Ecker, Board Member, Mary W. Bearnson, Board Member, and Mark Walker, Board Member

Judge Eklund notified the Board that March 13, 2007 the Rules could become effective if there are no further comments. A copy of the Rules Hearing is available from Judge Eklund for any interested party.

BOARD MEETING:

CONVENED: 9:37 A.M.

Bureau Manager:
Board Secretary:

ADJOURNED: 1:17 P.M.

Noel Taxin
Karen McCall

Board Members Present:

Shaun S. Myers, Chairperson
Joseph W. Thalman
Craig McMillan
Reginal V. Ecker

Mary W. Bearnson
Mark Walker

Board Members Absent:

Allyn Walker

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Read and approve the November 2, 2006 Minutes.

Mr. McMillan made a motion to approve the minutes as read. Mr. Ecker seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

10:30 A.M.

Robert Wilcoxon, Probationary Interview, and Del Ballard, Mr. Wilcoxon's Supervisor

Mr. Wilcoxon and Mr. Ballard met with the Board.

Ms. Bearnson conducted the probationary interview.

Ms. Bearnson introduced herself, Mr. Thalman, Ms. Taxin and Ms. McCall to Mr. Ballard.

Ms. Bearnson asked Mr. Wilcoxon if he brought anything with him to submit to the Board for review.

Mr. Wilcoxon responded that he had CE documentation to submit. He stated that he met with his therapist about a week ago and the therapist had said he would write a letter report for the Division. Mr. Wilcoxon stated that he had an appointment with the therapist in November 2006 which was cancelled due to a funeral conflict. He stated that he gave his book report to the therapist and that should be documented in the therapist report.

Ms. Bearnson stated that Mr. Wilcoxon's Stipulation and Order required 10 hours of CE in the area of ethics to be completed within one year. Ms. Bearnson stated that February 17, 2007 is end of that one year period.

Mr. Wilcoxon responded that at the last Board meeting the Board had told him 3 hours would count on the

class he was going to take and 7 hours would count on the book report. The total of the two could add up to the 10 hour CE requirement. He stated that he will be attending a course on Friday for Insurance CE for 2 CE hours. Mr. Wilcoxen stated that the Board had said they would waive some of the hours for him.

Ms. Bearnson stated that she did not recall the Board making a statement to give Mr. Wilcoxen 3 hours for the class and 7 hours for the book report. She stated that she also did not recall the Board saying they would waive some of the required CE hours as they do not have that authority.

Ms. Taxin responded that the Board has not yet received the book report documentation. She requested Mr. Wilcoxen when he attends the Insurance class to write what he learned in the class that applies to his business. She stated that Mr. Wilcoxen will then have 3 more hours to complete for the requirement of 10 hours of CE.

Mr. Wilcoxen commented that all the ethics courses cover about the same material. He asked the Board if they had any suggestions on where he could obtain a class that would be accepted.

Ms. Taxin responded that she had given Mr. Wilcoxen information at the last Board meeting regarding contacting the Utah Social Work Association. She stated that he might contact the University of Utah, his Mortuary Science school, the University of Phoenix, Salt Lake Community College or other Colleges or Universities regarding ethics courses they may offer in their curriculum. She reminded him that anything he plans to attend must be submitted to her for review and pre-approval before he registers or attends for the CE to be counted.

Mr. Myers responded that Mr. Wilcoxen might also contact NFDA as they offer a CE ethics course that is 8 to 10 hours. He stated that there is an ethics course that is offered around the United States for individuals who are not licensed as

Funeral Service Directors but want to do Funeral Planning. Mr. Myers stated that the conferences often include courses in ethics and Mr. Wilcoxon might check out conference dates and agendas.

Ms. Bearnson asked if the Board has been clear and if Mr. Wilcoxon understands what type of CE they are looking for him to complete.

Mr. Wilcoxon responded that he now understands what will meet the requirement.

Ms. Bearnson asked Mr. Ballard if he would like to address his supervision of Mr. Wilcoxon.

Mr. Ballard responded that this is the first time he has ever supervised anyone on probation and if he ever agrees to supervise a probationer again he would do it different. He stated that he and Mr. Wilcoxon have talked frequently and he has asked Mr. Wilcoxon about his insurance contracts. He stated that Mr. Wilcoxon has reported that he is of the opinion that everything is in order and under control. Mr. Ballard stated that the preneed insurance contracts are under the control of the insurance companies. He stated that he believes Mr. Wilcoxon has been honest with him in answering questions that have been asked. Mr. Wilcoxon stated that he has discussed licensing issues and the CE requirements and he is comfortable with the direction in which Mr. Wilcoxon is headed.

Ms. Bearnson asked if Mr. Ballard was aware that the Stipulation and Order requires a monthly report from him to be submitted to the Board. She stated that the report needed to be submitted monthly and it is not acceptable to have 2 or more reports submitted at the same time.

Mr. Ballard responded that he was aware that monthly reports were required. He stated that his understanding was that the reports were due monthly for 6 months and then would be due quarterly.

Ms. Taxin responded that Mr. Ballard is not on probation and that it is the responsibility of Mr.

Wilcoxon to make sure the Division/Board receive the reports on time. She explained that sometimes the Division does have some problems with the fax machine and the reports received last night were unreadable. She stated that Mr. Wilcoxon called Ms. McCall late in the afternoon and reported that he had been trying to send a fax but it would not go through. Ms. Taxin stated that the reports are still due monthly as reports have not been consistently received for the 6 month period and the Board has not yet changed the requirement to quarterly. She stated that at the last Board meeting Mr. Wilcoxon committed to the Board that Mr. Ballard would go to his facility once a month and write a report on that meeting. She stated that there have been no reports received from Mr. Ballard or Mr. Wilcoxon regarding Mr. Ballard meeting with Mr. Wilcoxon or going to the facility. She voiced frustration with Mr. Wilcoxon as he has not been in contact with her regarding his probation.

Ms. Taxin stated that the monthly reports are important and it is the responsibility of Mr. Wilcoxon to be sure all the reports are sent and received by the Division. She stated that it is not Mr. Ballard's responsibility to be sure reports are received. Ms. Taxin again stated that there have been no reports from Mr. Ballard since the last meeting on November 2, 2006.

Ms. Bearnson suggested Mr. Wilcoxon contact the Division when he receives his appointment letter to be sure all reports have been submitted and received. She also recommended Mr. Ballard document in his reports when he meets at Mr. Wilcoxon's facility.

Ms. Taxin explained that the Stipulation and Order requires Mr. Wilcoxon to meet once a week with the supervisor and the Board adapted the requirement as Mr. Ballard is not located at the same facility as Mr. Wilcoxon. She stated that the report should be more specific by documenting that the supervisor was at the business location on X date and reviewed X number of files. She stated

that the report should state that in the files reviewed all documentation was appropriate and in order or Mr. Ballard should report on anything out of the ordinary.

Ms. Taxin stated that the Board was made aware that Mr. Ballard volunteered his time to supervise Mr. Wilcoxen. She stated that if Mr. Ballard is now of the opinion, due to the understood responsibilities, that he needs to be compensated for the time required to supervise he should address that with Mr. Wilcoxen.

Mr. Ballard responded that he did not understand that the Board wanted detailed reports. He stated that he is available and could meet once a week with Mr. Wilcoxen. He stated that he was not aware that he should be active in Mr. Wilcoxen's day to day business.

Ms. Taxin commented that the Board has explained to Mr. Wilcoxen the requirements and the expectations which he voiced he would share with Mr. Ballard. She stated that Mr. Ballard was requested to meet today as the requirements and expectations have not been met. Ms. Taxin stated that the goal is for Mr. Ballard to report that Mr. Wilcoxen is a safe practitioner. She stated that Mr. Ballard and Mr. Wilcoxen should meet weekly for awhile and then request the Board to reduce the time when Mr. Ballard is comfortable that Mr. Wilcoxen is practicing within the guidelines. She stated that a request to change the time would have to go to the Board to review and vote on.

Ms. Taxin stated that the reports should have as much information as possible as Mr. Wilcoxen does not have a supervisor on site. Ms. Taxin stated that the secretary writes his employer reports and she is probably not going to report Mr. Wilcoxen having any problems due to the relationship that she is his employee.

Ms. Taxin stated that the reports are to be ongoing to document that Mr. Wilcoxen is getting on track.

Ms. Bearnson stated that the October and January therapist reports have not been received.

Mr. Myers commented that Mr. Ballard is the eyes and ears for the Board. He stated that Mr. Ballard needs to be objective, review Mr. Wilcoxon's business practices, how he does his contracts and how the contracts are filed, review the business accounting, deposits and expenditures to be sure they are done properly as the review also protects Mr. Garner, the employer.

Ms. Bearnson asked if Mr. Wilcoxon is still meeting with Dr. Ahern for therapy as there have not been current reports received.

Mr. Wilcoxon stated that he is still seeing Dr. Ahern and has an appointment for May 14, 2007. He stated that Dr. Ahern will submit the report for the Board.

Ms. Bearnson responded that Dr. Ahern should have time to get the report submitted prior to the May 31, 2007 Board meeting.

Ms. Taxin asked if Mr. Wilcoxon is attending any support groups and, if he is, which groups.

Mr. Wilcoxon responded that he is attending an AA support group through his church. He stated that the support group is not specifically for gamblers and he doesn't get much out of it. He stated that he attends once a month at different locations. Mr. Wilcoxon stated that the Veterans Hospital also has a group that meets every Tuesday each month and he thinks there is a group specifically for gambling. He stated that he has never checked it out.

Ms. Taxin asked why he has not gone up to the Veterans Hospital to check it out if he thinks they have a group specifically for gambling.

Mr. Wilcoxon responded that he does not believe he needs it as he has been dealing with his issues for over a year. He stated that he does not think the monthly

support group is helpful to him for the same reason. He stated that it is more beneficial for him to meet with Dr. Ahern.

Ms. Taxin commented that she is not sure how helpful Dr. Ahern could be as he and Mr. Wilcoxon only meet on a quarterly basis.

Mr. Wilcoxon responded that he did meet monthly with Dr. Ahern for a period of time but it is expensive to meet with him.

Ms. Taxin stated that there are other therapists that may not cost as much as Dr. Ahern.

Mr. Wilcoxon responded that his Bishop referred him to Dr. Ahern as someone who relates and understands the gambling addiction.

Ms. Taxin asked Mr. Wilcoxon if Dr. Ahern is meeting his needs as a therapist.

Mr. Wilcoxon responded that gambling does not enter his mind any more. He stated that the addiction is on the addicts mind all the time and the addict has to hit bottom before they are able to start raising themselves up. He stated that the addict leads a double life and it is hard for those who have not been an addict to understand. He stated that since he has been seeing Dr. Ahern he is no longer feels the constant turmoil.

Ms. Taxin asked if Dr. Ahern recommended they meet quarterly due to the financial situation or is it based on the progress Mr. Wilcoxon has made.

Mr. Wilcoxon responded that Dr. Ahern recommended they meet monthly but as expense was an issue he agreed to quarterly and never has brought the issue up again. He stated that if the Board wants him to meet monthly again then he will go back to monthly.

Ms. Bearnson stated that the Board does not make the decision regarding how frequently the probationer meets with the therapist. She stated that the therapist makes the recommendation for

frequency.

Ms. Taxin asked Mr. Wilcoxon to call Dr. Ahern and notify him that his report has not been received and ask him to address the recommendation of moving the therapy from monthly to quarterly. She stated that Dr. Ahern will be required to write a recommendation regarding Mr. Wilcoxon being safe to practice.

Mr. Wilcoxon responded that he and Dr. Ahern discussed the reports last week.

Ms. Taxin stated that she is at a disadvantage as she does not have a report from Dr. Ahern. She stated that Dr. Ahern should report any concerns he may have and make any recommendations that would be appropriate regarding Mr. Wilcoxon having met the goals of therapy and regarding continuing therapy.

Ms. Bearnson again reminded Mr. Wilcoxon that his CE is to be completed by February 17, 2007. She again stated that the required 10 hours are in addition to the 20 continuing education hours required for renewal.

Mr. Wilcoxon responded that he will be attending a class for 2 CE's on Friday. He stated that he completed the required CE to renew his license to May 31, 2008.

Ms. Taxin stated that Mr. Wilcoxon has submitted documentation of completing 3 hours out of the 10 required by the Stipulation and Order and the requirement is to have the 10 completed within 1 year from the date of signing the Stipulation and Order. Ms. Taxin again reminded Mr. Wilcoxon that he has 2 more days to complete that requirement.

Ms. Bearnson reminded Mr. Wilcoxon that he was going to write a book report on the book he read and was to submit the report to Ms. Taxin. She stated that Mr. Wilcoxon has not yet submitted that

report for review.

Ms. Taxin commented that she and the Board are frustrated with Mr. Wilcoxon as he knew what he need to do when he left the November 2, 2006 Board meeting. She stated he wrote down and voiced all requirements. She stated that she is feeling like Mr. Wilcoxon suddenly rushed on February 14, 2007 to get information submitted for the Board meeting. Ms. Taxin stated that the Board has been more than generous on Mr. Wilcoxon's requirements. She stated that Mr. Wilcoxon is out of compliance with his Stipulation and Order. She reminded him that the Board has consistently told him that the supervisor reports and employer reports must be sent monthly and prior to Board meetings for her to review for the meetings. She stated that he knew in November that his October therapist report had not been received and another report was due in January. She stated that he is meeting again today in February and the October and January reports still have not been received.

Mr. Wilcoxon responded that he now understands that he is responsible to be sure his CE is completed and his reports are submitted on time. He stated that it has been a trust factor on his part to trust the therapist, supervisor and the secretary to submit information on time and today he understands that information has not been submitted.

Ms. Taxin responded that Mr. Wilcoxon has met several times this year with the Board and at each appointment the Board has covered the same information. She stated that if Mr. Wilcoxon's employer, secretary, supervisor and therapist do not write specific information then the Board does not know what he is doing and if he is doing his business correctly. She stated that writing Mr. Wilcoxon is a good guy does not give the Board a clear picture of how he is conducting his business, keeping his records, etc. She stated that the Board needs to know that Mr. Wilcoxon is doing his business professionally and correctly in order to be

sure he will not do the things again that brought him before the Board.

Mr. McMillan stated that if Mr. Wilcoxen had been compliant through the year he has been on probation with reports submitted when they were due then Mr. Wilcoxen would be able to request an early termination about August 2007. He stated that Mr. Wilcoxen has now met with the Board for a year and the Board finds that he still has not done what he agreed to do in the Stipulation and Order. Mr. McMillan stated that it suggests that being on probation and being licensed is not as important to Mr. Wilcoxen as it should be. He stated that the Board does not want Mr. Wilcoxen to lose his license but continued non-compliance indicates that the Board giving him additional changes to come into compliance are gone. He stated that if he were Mr. Wilcoxen he would make it clear to the therapist, Mr. Ballard and the secretary that faxing reports the night before the meeting is unacceptable. He stated that Mr. Wilcoxen needs to get on task and get into compliance and complete the requirements of his probation.

Ms. Bearnson reminded Mr. Wilcoxen that the Board talked about the possibility of Mr. Garner submitting monthly reports instead of requiring his secretary to write and submit the reports. She asked if that was an option.

Ms. Taxin responded based on Mr. Wilcoxen's facial expression that the Board discussed requiring Mr. Garner write the reports and it is not Ms. Bearnson making a decision without the Board's recommendation.

Mr. Wilcoxen responded that having Mr. Garner submit reports is not an option based on the failing health of his wife and himself. He stated that Mr. Garner is unable to be physically involved in the business.

Ms. Bearnson stated that the secretary, Jan, will have to continue to write the reports, submit them

monthly as required and be more specific in the reports as to his performance.

Mr. Ecker asked who writes Mr. Wilcoxon's pay check.

Mr. Wilcoxon responded that Mr. Garner has an assistant that writes the checks. He stated that Jan is the only person who interacts with him on a daily basis.

Ms. Taxin stated that she and the Board have reviewed this before. She reminded Mr. Wilcoxon that he reviewed the Stipulation and Order and agreed to the terms of the probation prior to signing the document. She stated that he is an adult and he runs the business. She stated that he is continually out of compliance with the requirements.

Ms. Taxin again reminded Mr. Wilcoxon that the reports must be detailed and specific regarding the day to day running of the business, i.e.: he is consistently there on time, the contracts are in order, she is having to follow up on Mr. Wilcoxon, how many contracts he has written during the month, etc.

Mr. Wilcoxon again responded that he now understands what the Board is looking for on supervision reports, employer reports and therapy reports.

Mr. Myers commented that Mr. Wilcoxon has not had an acceptable report to date.

He stated that the business plan that was submitted had a good first paragraph but the rest of the plan was language taken from the Stipulation and Order. He stated that he would like Mr. Wilcoxon to review his business plan and write a plan that indicates, the contracts are in order and filed in a timely manner, the process for selling preneed contracts, etc. He stated that this would ensure that anyone could come in and step right in without

any problems. Mr. Myers stated that if there is an accountant, he would like Mr. Wilcoxon to discuss issues with the accountant and have the accountant document that Mr. Wilcoxon is above reproach in his business ethics.

Mr. Ballard asked the Board how much latitude he has to go into the business and review files. He stated that he really questions if Mr. Wilcoxon should be signing as a Funeral Service Director on the insurance contracts. He explained that a Director may retain funds for up to 30 days before they are required to deposit them. He stated that he would be willing to review all contracts and funds received and sign as a second signature on all contracts if the Board requests. Mr. Ballard stated that the purpose of the Director signing the contracts is to confirm that they accept the contract and will provide the services outlined. He stated that on the surface everything appears to be in order. Mr. Ballard suggested that the Board invite any supervisor of a probationer to attend the first meeting to have the Board review the requirements of the Stipulation and Order and to explain the expectations of the supervisor.

Mr. Wilcoxon responded that he is the only Funeral Service Director at the facility and when he sells preneed contracts he signs both signature lines.

Mr. Ecker commented that he also sells the preneed contracts, signs his own name and has another Director sign each contract with him.

Mr. McMillan stated that Mr. Ballard addressed some specific areas of concern but Mr. Garner is the owner of the business and he should be addressing some of these areas.

Mr. Wilcoxon responded that he is the sole person on site and maybe Mr. Ballard could review and sign his contracts as the second signature.

Ms. Taxin stated that Mr. Wilcoxon has a business problem. She asked him what will happen when Mr. Ballard is no longer supervising.

Mr. Wilcoxon responded that he is the Director and the Agent and will sign both areas.

Ms. Taxin suggested that maybe another insurance agent could be assigned by the insurance company to come out and review contracts once a week and sign them as the second signature at that time.

Mr. Ballard responded that the insurance companies are sometimes a little lax and would not be able to send another agent out. He stated that the insurance companies should be more diligent in checking up on Mr. Wilcoxon's consecutive numbers of the contracts.

Ms. Taxin suggested Mr. Wilcoxon outline in his business plan the methods he has in place to address this issue. She stated that if he voids a contract he should keep that contract in a file so he knows there is accountability for all contracts.

Mr. Wilcoxon responded that he is currently retaining the void contracts in a file.

Ms. Taxin stated that Mr. Wilcoxon needs to write down that process in his business plan so that there is communication regarding what he is doing in the business. She stated that if the Division receives a call and an investigator goes out, if Mr. Wilcoxon reports he has a ledger then the investigator should see that ledger. She stated that if Mr. Wilcoxon says there is a ledger and the investigator cannot find one, then we know there is a problem with the business plan.

Mr. Wilcoxon responded that his secretary, Jan, writes the contract numbers and names in the ledger and writes the family a letter.

Ms. Taxin again stated that Mr. Wilcoxon knows what is expected of him and he now must show that he understands by the documentation written in the reports that are submitted.

Mr. Ballard asked if the Board wants him to also sign

the contracts.

Mr. Myers responded that the Board would leave that up to Mr. Wilcoxen and Mr. Ballard to decide. He stated that the Board reviews the requirements of the Stipulation and Order each time Mr. Wilcoxen meets. He stated that there are a lot of blanks on Mr. Wilcoxen's report form which indicate that he is out of compliance and the Board does not understand why he continues to be out of compliance.

Ms. Taxin addressed Mr. Ballard's comment regarding inviting the supervisor to the Board meeting to discuss requirements and expectations. She stated that the Board has continually commented that Mr. Wilcoxen is welcome to invite his supervisor to come. She stated that Mr. Wilcoxen has stated that he would inform Mr. Ballard of the comments that were made in the Board meetings. Ms. Taxin stated in the future the Division will invite the supervisor versus assuming the probationer follows through.

Mr. Ballard voiced concern regarding reviewing Mr. Wilcoxen's business files.

Ms. Taxin responded that with the mental health professions there are HIPPA Laws and Confidentiality Laws. She stated that most supervisors require clients to sign a waiver for their supervisor to review the files. She stated that a Funeral Service Director is a little different than a mental health therapist but both licenses are professional licenses. She stated that if it is a concern for Mr. Ballard that he contact Mr. Garner regarding permission and both he and Mr. Garner sign a document regarding Mr. Ballard reviewing the business files and information. She stated that Mr. Garner may be an older person but he has delegated his business to Mr. Wilcoxen to run properly.

Mr. Wilcoxen again stated that Mr. Garner does not want any involvement in the business due to his

personal issues.

He stated that he has heard what Mr. McMillan has said today in that he needs to get his life and business in order to not take the chance of losing his license and employment. He stated that he has heard that it is his responsibility to be sure he is communicating to the Board and to Mr. Ballard. Mr. Wilcoxon stated that he thinks he now understands fully what should be on the reports and what Mr. Ballard needs to do and to report.

Ms. Taxin stated that Mr. Wilcoxon has Ms. McCall's phone number and should be calling her to confirm the Division has received reports.

Mr. Wilcoxon stated that he will call Ms. McCall on Monday to confirm Dr. Ahern's report was received. He stated that if the report has not been received then he will give Dr. Ahern a call.

Ms. McCall suggested Mr. Wilcoxon contact Dr. Ahern to confirm the report has been sent.

Mr. Wilcoxon responded that when he calls Dr. Ahern he is not usually able to talk with him directly and has to rely on a secretary to deliver the message. He stated he will call Ms. McCall directly on Monday.

An appointment was made for Mr. Wilcoxon to meet again on May 31, 2007.

12:00 P.M.

Mr. Thalman left the meeting for an appointment.

12:30 A.M.

Mitchell Jones, AG, Discuss Statute regarding Trust Accounts

Mr. Jones explained that the Funeral Service Law has a conflict regarding distribution of funds after service and all costs have been paid.

He stated that in section 58-9-704 it says: "Interest earned on trust funds shall be available for expenditure according to the follow priority: (4) to pay the provider available funds left in the individual trust account after: (a) all costs of providing personal property and services for which the provider is

obligated under the contract underlying the trust; or (b)(i) the contract is canceled as provided under this chapter; and (ii) all amounts payable to the buyer, beneficiary, or any other person have been paid in full.”

Mr. Jones then stated that in section 58-9-705 it says: “(3) After the provider completes all of the provider’s obligations under the preneed funeral arrangement, the provider shall return all remaining funds under the preneed funeral arrangement to the estate of the beneficiary.

Mr. Jones asked the Board for clarification.

Mr. Myers stated that many Directors are of the opinion that the Funeral Home takes all the risks and more often than not there is a negative balance with no surplus after all costs have been covered. He stated that many are of the opinion that if there is a balance that balance should go to the funeral provider.

Mr. Myers stated that when there is a preneed contract the family receives the services agreed upon even if all the funds are not all there.

Ms. Taxin responded that she is of the opinion that the Funeral Director should retain any remaining funds especially if they are operating at a loss many times.

Mr. McMillan stated that the question is what was originally purchased. He stated that when specific services are purchased and then the family makes modifications at the time of need, if there is any balance it should go to the establishment.

Mr. Ecker stated that there are 2 parts of each contract, i.e.: guaranteed costs and variable costs.

Mr. McMillan responded that if there is a balance in the guaranteed costs then the mortuary should retain the balance. He stated that if there is a balance on the variable costs then that should be returned to the family. Mr. McMillan stated that

you might be sitting down with the person and they decide they want an announcement in a Salt Lake paper which costs more. He stated that then you sit down with the family and they decide they don't want an announcement in the Salt Lake paper, which is a variable cost. He explained that Lindquist requires a cash advance which is used for newspaper announcements and other specified items. He stated that the client is informed that they will get a refund if there are any funds left over.

Mr. Myers stated that there is a clause in the contracts he uses that has a variable amount of flexibility in the supplemental cash. He recommended Mr. Jones and investigators review the contract when a complaint comes in and if the contract states any balance should be returned to the family then that should be honored.

Mr. McMillan gave the example of someone going into a nursing home and has to sell down to be accepted. He stated that families come into their mortuary and explain the situation and then state that they are checking to make sure they have enough in the trust account to cover all costs.

Mr. Jones stated that when the Law is changed again the Board and the Association may want to correct any conflicting areas. He suggested the language be "after all remaining funds...then add "considered to be supplemental cash, additional benefits or non-guaranteed amounts."

Mr. McMillan stated that he brought a proposal today regarding making a change in the contracts to the limited death benefit area. He stated that now the mortuary has to provide the same price list they had at the time of the contract for the 2 year contestability period. He stated that he would like to propose that the current price list be used as prices do change frequently. He stated that the contracts that are currently being used say that the mortuary will honor the contract based on the prices at the time the contract was originally

written. Mr. McMillan requested the contracts be changed to read: “Graded/Limited Death Benefit Insurance: If the insured dies by other than accidental means during the first two years, either the family or the estate must pay the difference between the limited death benefit and the then current prevailing price for the at-need funeral goods and services selected.

Mr. Jones responded that he has had some discussion regarding the issue. He stated that he would like to research what other States are doing before making any recommendation. Mr. Jones stated that he did not believe the change would require a Law or Rule change.

Ms. Taxin suggested Mr. Jones and the Board review section R156-9-614(1) in the Rules for further discussion.

Ms. Bearnson asked what happens if the person passes away before the contract has been paid in full.

Mr. Myers responded that the Mortuary incurs the additional cost.

Ms. Taxin responded that section 701 talks about the preneed contract and the website has a check list of requirements needed in contracts. She stated that the Laws and Rules do not specifically define what is required in the contract.

Mr. Jones stated that once the new Law passes the preneed contracts can be changed. He stated that the mortuary would still need to keep a copy of their contracts and there are still specific things that are required to be in the contracts.

Ms. Taxin cautioned the Board to be sure they are not being unethical with the public.

DISCUSSION ITEMS:

FYI

Ms. Taxin notified the Board that Craig Jackson

retired from the position as Division Director and F. David Stanley was appointed as the new Division Director.

Mr. Myers stated that Mr. Stanley's background is in construction and he was an assistant to Mr. Jackson for about 2 years. He explained that Mr. Stanley would not be at the meeting today as he is in meetings with the Legislature.

Legislative Update

Ms. Taxin stated that she has been up at the Legislature 3 times for the proposed Funeral Service Law, House Bill 130. She stated that it has passed through each process.

Ms. Taxin explained that Kelly Magleby from the Association attended the first meeting. She stated that the funeral service session was not completed at the first meeting and they had to return another day. She stated that Mr. Magleby was unable to return for the second meeting.

Mr. McMillan stated that Mr. Magleby called him to request him to attend the Legislative meeting as he had fallen off a roof and broke some ribs and would not be able to come back up for the second meeting.

Ms. Taxin informed Board members that they cannot represent the Division/Board and the Association as it is a conflict of interest and is not appropriate to meet with the licensing Board and make decisions and then meet with the Association Board and make decisions. She stated that she has explained this to Mr. Magleby and Mr. Bonzo.

Mr. Myers responded that the sponsor of the Bill had contacted Mr. Magleby and told him that he did not need to come back for the second meeting.

Ms. Taxin stated that she does not believe that it is the responsibility of the sponsor to make the decision. She explained that if questions were asked she could not answer them on behalf of Mr. Magleby and Mr. Bonzo. She stated that it would be a shame if the Bill

did not pass based on no one being in the meetings to answer questions and representing the Association.

Mr. Myers commented that the Association and Board have worked together on the Bill for 1 year and it would be a shame if it did not pass.

Ms. Taxin stated that it appears to have gone through the whole process but the Governor will still need to sign it before it becomes Law.

Review Funeral Service Continuing Education

Ms. Taxin explained that she was contacted by Saif Fatteh who stated that the Board had approved his continuing education program. She stated that she informed Mr. Fatteh that Utah does not review to approve or deny programs as the guidelines are found in the Rules. Ms. Taxin stated that she asked Mr. Fatteh to remove the language from his website regarding the CE was pre-approved by the Utah Division/Board. She stated that he asked if the Board would review his program to be sure it is appropriate for CE and she agreed to present it to the Board for review.

Ms. Taxin stated that if the new Law is passed the Board will be adapting the Rules for more clarity. She stated that when the Rules are review the Board may want to include a specified number of hours that may be obtained through in internet and a specified number of hours that must be live training. She stated that some Directors have called asking if their insurance CE will meet the full requirements for the Funeral Service Director CE. She stated that the Board may want to include a specified number of insurance CE hours in the Rules. Ms. Taxin stated that if the Rules are clear then she and other staff do not have to micro-manage the CE.

Mr. McMillan reviewed Mr. Fatteh's CE information. Mr. McMillan commented that the content appears to be appropriate for CE, however, the number of hours he is giving appears to be too many hours for the content as outlined.

Ms. Taxin reminded the Board that the hours must be

in the time requirement as outlined in the Rules. She asked if Mr. Fatteh would be willing to comp for a Board member to take one of the courses in order to determine appropriate content, length of time to complete and appropriate CE credit would anyone be interested. She stated that if the course is appropriate then she would use it as a reference.

Mr. McMillan volunteered to take one of the courses and report back to the Board.

Ms. Taxin stated that she will contact Mr. Fatteh and ask if he will give Mr. McMillan one complementary class. She stated that if Mr. Fatteh is not willing to give one complementary class then inquiries regarding the program will be informed that they will be taking courses at their own risk.

2007 Board Meeting Schedule

Mr. Myers stated that he would not be available on August 16, 2007 and requested the Board meeting be changed to a different date.

Upon review of schedules, the Board determined to change the meeting to September 20, 2007.

The Board noted the following dates for the 2007 Board meeting schedule: May 31, September 20 and November 15, 2007.

CORRESPONDENCE:

The Conference Newsletter

The Board reviewed the Conference Newsletter and noted the April 18 – 22, 2007 Annual Convention agenda and registration information.

Mr. Myers recommended Allyn Walker be contacted regarding attending the convention.

Inquiry regarding FTC Funeral Rules Exemption

Mr. Myers read the inquiry to the Board regarding applying for and receiving an exemption from the FTC Funeral Rules.

Board members responded that the Federal Trade Commission, FTC, regulates prices. Board members stated that they have never heard of any

State being exempt from the FTC but have heard of cases where the FTC has conducted some sting operations to be sure Funeral Service Mortuaries are in compliance with the regulations.

Inquiry regarding Pet Crematoriums

Mr. Myers read the inquiry regarding regulations of animal crematories being co-mingled with human crematories.

Ms. Taxin stated that there is nothing regarding regulations of animal crematories in the Funeral Service Laws or Rules.

Mr. Myers responded that he does not bring animals into any of his facilities but is aware of someone who does use the same crematory for humans and animals.

Mr. Ecker responded that there are several companies that do animal crematories only. He stated that there are also some crematories that have a section for humans with a dividing wall for a section for animals.

Mark Walker responded that there is one in American Fork, Utah that is for animals only.

Mr. Myers asked if language could be included in the Rules regarding unethical practice to use the human crematory for animals.

Ms. Taxin responded that when the Division/Board review the Rules it could be addressed if this practice should be included as unprofessional conduct.

ICCFA Conference Information

The Board reviewed the ICCFA March 20-23, 2007 Conference information. Board members commented that they would be unable to attend the conference.

NEXT MEETING SCHEDULED FOR:

May 31, 2007

MEETING ADJOURNED AT:

1:17 P.M.

May 31, 2007
Date Approved

(ss) Shaun S. Myers
Chairperson, Utah Funeral Service Licensing Board

March 7, 2007
Date Approved

(ss) Noel Taxin
Bureau Manager, Division of Occupational &
Professional Licensing